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Meghan Rene, et al., v. Dr. Suellen Reed, et al.

Lesson 1: What is “Due Process” Anyway?

A lesson plan for secondary teachers on the constitutional requirement for “due process of law.”*

*The staff of the judicial branch chose this case as a useful tool to teach an interesting aspect of the law. Its selection has no bearing on how the case will ultimately be decided. Since the members of the Court did not participate in the preparation of the lesson plan; the issues raised in it will not necessarily be addressed in the oral argument.

Background:

This lesson is based on the case of *Rene v. Reed*. A case summary, the [appellant’s](#) (Rene’s) petition to transfer, the [appellee’s](#) (Reed’s) opposition to the petition to transfer, the [Court of Appeals opinion](#) and the one-hour webcast of the January 30, 2002 oral argument before the Indiana Supreme Court are all available on-line at <http://www.in.gov/judiciary/education/cotm.html>.

A separate lesson, giving an overview of the [structure of Indiana’s court system](#), is also available to provide students with general information about how Indiana courts work. It can be found on the “Courts in the Classroom” homepage at <http://www.in.gov/judiciary/education/>.

A [glossary](#) of legal terms used in this and other Courts in the Classroom lesson plans is available on-line as well.

Learning Objectives:

At the end of this lesson students should be able to:

1. Understand the legal term “due process of law” and its historical origins;
2. Discuss the requirements for “due process of law” in both the U.S. Constitution and the Indiana Constitution and how those rights are similar or different; and
3. Discuss and differentiate between procedural and substantive due process.

On-line Resources

General Resources:

[U.S. Constitution](#) and [Bill of Rights](#)
[Indiana Constitution](#)

Due Process-Related Resources:

www.FindLaw.com is an useful Internet resource for anyone interested in legal issues. It has several pages dedicated to information about due process. Findlaw's [basic definition](#) and [brief history](#) of the clause are a useful starting point for this lesson.

The [National Archives](#) site contains a very helpful essay detailing the importance of the Magna Carta in the development of American law.

The 1215 version of the Magna Carta, found at <http://vi.uh.edu/pages/bob/elhone/Magna.html>, gives a one-paragraph summary of King John's reign and provides suggestions to guide student reading.

The [Avalon Project](#) of the Yale Law School divides its screen on the Magna Carta into several sections so that students can read the text and definitions of difficult terms at the same time.

Learning Activities:

1. In a brainstorming session (or any similar type activity) session, ask students to define the legal term "due process." If they have trouble with this (which is likely) ask them to use the phrase in a sentence, or to give an example of "due process" in action. The idea of "due process of law" is a much-heralded part of the American legal system. Yet, it evades simple definition. Following this discussion, ask students to look up the definition of "due process." A [legal dictionary](#) like the one at www.Findlaw.com might be a good place to start in addition to a textbook, a conventional dictionary or an [encyclopedia](#).
2. Legal scholars trace the history of the due process clause found in the U.S. Constitution and individual state constitutions back to Chapter 39 of the Magna Carta (1215). Divide your students into several groups. Assign each group a particular chapter of the [Magna Carta](#) to summarize for the class (each chapter is generally only one or two sentences). This document is readily available in printed texts and on the Internet.
 - Discuss the overall objectives of this document.
 - What types of issues did it expressly address?
 - How did it change the legal relationship between the British monarch and his subjects?

The idea that the monarch does not have unlimited power over his subjects is extremely important in understanding the actions of North American colonists leading up to the Revolution and in the creation of their state and federal constitutions.

3. Ask other groups to research early American state constitutions for references to "due process of law" or "law of the land." The [Maryland](#) (1776), [Virginia](#) (1776), and [New York](#) (1777) constitutions all contain these phrases. Ask students to think about why Americans were so eager to have these, and a multitude of other protections, written into their constitutions. Remind them of British actions leading up to the Revolutionary War.

4. Ask students to examine the [U.S. Constitution](#) and the [Bill of Rights](#) (particularly Amendments 5 and 14) for any mention of the requirement for “due process of law.” Ask another group of students to examine the [Indiana Constitution](#) (particularly Article I, sections 12 and 23) for comparable terms. Ask them to think about any similarities and differences in their findings.

For Further Study

1. In the *Rene v. Reed* case, Meghan Rene and other disabled students argued that their “due process” rights have been violated in regard to the Indiana ISTEP graduation exam. Ask your students to read the petition-to-transfer briefs from both [Rene](#) and [Reed](#). The action was brought against Dr. Reed in her capacity as the State Superintendent of Public Instruction. Ask the students to summarize Rene’s arguments about why her rights were violated and Reed’s arguments about why they were not.

Make sure your students see that there are two separate arguments being made:

- The amount of notice given about the new graduation requirements, and
- The different treatment of disabled versus non-disabled students.

Note: Rene’s brief argues that both their procedural and substantive due process rights were violated. The difference between substantive and procedural due process will be the focus of Lesson Two in this unit. This activity makes an excellent transition to that lesson, or, if both lessons will not be completed, a way to concisely teach about the distinctions between procedural and substantive due process. See Lesson Two for suggested on-line resources on this topic.

2. The Supreme Court denied Meghan Rene’s petition to transfer. The opinion of the Court of Appeals stands and the appeal is at an end. Ask your students to read the opinion of the Court of Appeals in [Rene v. Reed](#).
 - In its written opinion, the court first summarizes the facts of the case, and then addresses each point raised by the two sides.
 - What reasons does the court give for deciding in favor of Reed?
 - What remedy does the court say students are entitled to in the event they fail the exam? Is the state offering this remedy?

Related Indiana Social Studies Standards

U.S. Government.1.13: Examine fundamental documents in the American political tradition to identify key ideas regarding limited government and individual rights.

Examples: [Magna Carta](#) (1215), [Virginia Declaration of Rights](#) (1776), the [United States Constitution](#) (1787), [Bill of Rights](#) (1791) and the Indiana Constitutions of [1816](#) and [1851](#)

U.S. Government.2.3: Identify and explain elements of the social contract and natural rights theories in United States founding-era documents.

U.S. Government.3.15: Compare core documents associated with the protection of individual rights, including the [Northwest Ordinance](#), the [Bill of Rights](#), the [Fourteenth Amendment](#) to the United States Constitution, and [Article I of the Indiana Constitution](#).